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Honorable Eric R. Komitee
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *U.S. v. Orena*; 92-cr-351

Defendant's Reply to Government's Opposition

Dear Judge Komitee;

Please be advised that this office represents the defendant in the above captioned matter Victor Orena. Counsel submits this letter in opposition to the Government's reply to Orena's Emergency Motion for Compassionate Release.

Primarily, Counsel would like to address the fact that this court most certainly has jurisdiction over the defendant's application for compassion release. My understanding is that the appeal that is currently "pending" and has been pending for the past two years. It stems from a May 24, 2023 application to the court by the defendant's former attorney in which the defendant's gun charges were dropped. Previous counsel for the defendant applied to the court to resentence the defendant. It is this appeal that has been a pending since May 2023. In no way shall this pending resentencing application inhibit the defendant from bringing a motion for compassion release, especially under the serious and emergency circumstances being that the defendant is close to the end of his life.

In the Government's opposition paragraph 1, page 2, the Government proceeds to remind the court of the facts of this case, a factual basis that is over 35+ years old. Mr. Orena in his application for compassionate release did not mention the facts of his case whatsoever and only focused on his current terrible health conditions namely Alzheimer, dementia and

blindness and cardiac severe cardiac issues. Not going to rehash nor address the facts in this case for they truly are not relevant at this stage of the case 35 years after the fact, however I would like to make reference to the decision written by Judge Weinstein who was the presiding justice at Mr. Orena's trial. The defendant was found guilty on December 21, 1982 and as such was sentenced to life in prison. Judge Weinstein in the very first line of his sentencing memorandum states his goal clearly is too "incapacitate and a general deterrence" in the sentencing of Mr. Orena. I must say however, that 35 years later any defendant who is 90 years old and at the end of his life, the goal of Judge Weinstein has been accomplished, which is to incapacitate this defendant and literally take him out of the criminal world. As I have argued so many times in my original motion, Mr. Orena is a shell of his former self and is now literally "incapacitated."

Judge Weinstein goes on to further talk about, in this scathing decision the horrors of the defendant's actions and the actions of his cohorts. I have never minimized nor undermined the seriousness of Mr. Orena's actions; however, I must most respectfully point out that during this time the government had been actively working with an individual immersed in this so-called Colombo war and this individual had been a cooperator since the early 1960's. If the government wants to discuss the facts of the defendant's conviction, then the government must concede to the fact that the government's hands are also dirty. This is evident by the fact that in the following years additional codefendants and individuals alleged to be involved in this Colombo war are also indicted. However, at trial these individuals were completely acquitted upon discovery of government corruption in the scandalous and criminal actions taken by the FBI and their handling of the Greg Scarpa situation.

Counsel makes reference to United States v. Orena et al 833 F Supp. 849 EDNY, where by seven defendants in that case, including Victor Orena Jr., John Orena (the defendant's two sons) co defendants Thomas Petrizo, Vincent Cascio, Paul Bevalacqua and others were acquitted at trial largely based on the misconduct of the government. In a Newsday article of the time written by Joseph Gambardella and Patricia Hurtado the article makes reference to Juror number 186 who stated that "the acquittals stand from the jury believing that a high-ranking FBI agent helped fuel the Columbo war by feeding information to a now dead capo (Greg Scarpa Sr.) who was supposed to be an FBI informant but who also was deeply involved in the conflict." At trial defense attorneys portrayed Greg Scarpa Sr. as a crazed killer known as Hannibal Lecter and against whom the defendants (the seven acquitted), had to defend themselves from a man to be feared but was still allowed to run wild and even aided by his FBI handler. Juror number 186 said "the defendants were a group of guys trying to keep themselves alive and the evidence he said showed that Scarpa was running free doing what he wanted to do including murder."

In fact, this stain of government corruption stayed on the court house even years later. In fact, Judge Edward Korman in a sentencing in 2012 for Greg Scarpa Jr. the son of Greg Scarpa Sr., the government cooperator and rogue informant, Judge Korman suggested that the government oppose the motion for a sentence reduction because the FBI still may have a grudge against Scarpa Jr. for his willingness to testify against Lindsey DeVecchio. (Murder charges had been brought in Brooklyn State Court for DeVecchio's alleged involvement in murders committed by

Scarpa Sr.). DeVecchio was accused of helping Scarpa Jr's father Scarpa Sr. who was said to be a capo and also a mob rat, kill rivals during the Colombo family Civil War. The judge stated "it was my view and remains my view that DeVecchio provided information to Scarpa Sr. that got people killed, Korman said according to the transcripts I find it pretty outrageous and the bottom line was of course nothing happened to DeVecchio. He was permitted to retire and in his retirement was actually doing background checks for the FBI."

It is clear that if the defendant had the benefit of the evidence of government corruption and cover up with concern to the Greg Scarpa Sr. situation he may very well have been acquitted.

Moreover, perhaps Judge Weinstein would have written a totally different decision if he knew at the time the facts that Judge Korman new in 2012 and the facts that the jury heard in the Orena Jr trial in 1995, where seven defendants were acquitted. The point being, it is easy for the government to hang their hat on Judge Weinstein's decision but they ignore the acquittals and government corruption which was the result of multiple acquittals later down the road.

However, nonetheless, Counsel no longer wants to discuss facts that occurred over 35 years ago, I only make reference because the government open the door and I feel compelled to ensure that the truth of the matter is brought forth and not a half story and manipulative version of the facts. I would ask the court to please again focus on Mr. Orena's failing health.

This is most likely the last application Victor Orena will ever make to be released. The bottom line is that this is a man who has served his natural life in jail and all I asked is that the Court look at the totality of the circumstances, the defendant's health and the defendants being near death. I asked the Court to please have mercy on this man who is a shell of the person he had been 35 years ago and please allow him to die with some dignity and as a free individual with his family holding his hand as he passes away. Allow his soul to be judged by a greater power than us mortals for we have already taken everything away from Victor Orena I can only ask the court to allow him to die in his own bed.

Respectfully Submitted;

/s/ Gerard M. Marrone

Gerard M. Marrone, Esq.